

JUDGE BUCHWALD

12 CIV 3387

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
KRASSIMIR GALEV

PLAINTIFF,

-AGAINST-

ERIN CAPITAL MANAGEMENT, LLC.,
COHEN & KRASSNER and STEVEN COHEN,

DEFENDANTS
-----X

Complaint for
Violations of the Fair
Debt Collection
Practices Act

JURY TRIAL DEMANDED



INTRODUCTION

1. This is an action for actual and statutory damages brought by Plaintiff Krassimir Galev, an individual consumer, against Defendants Erin Capital Management, LLC ("Erin Capital"), Cohen & Krassner, and Steven Cohen for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA") which prohibits debt collectors from engaging in abusive, deceptive and unfair practices. Defendants violated the Act by bringing suit in an improper judicial district and by falsely representing to the court that it had properly served Mr. Galev with notice of the lawsuit at his actual address.

JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337. This Court has supplemental jurisdiction over the state law claims asserted herein under 28 U.S.C. § 1367(a). Venue is properly laid pursuant to 28 U.S.C. § 1391(b).

PARTIES

3. Plaintiff Krassimir Galev is a natural person residing at 2187 Cruger Ave, Apt. 1C, Bronx, New York.

4. Defendant Erin Capital Management, LLC is a Delaware corporation engaged in the business of collecting debts. The principal purpose of Defendant is the collection of debts and defendant regularly attempts to collect debts allegedly due to another, and is a "debt collector" as defined by 15 U.S.C. § 1692(a)(6).

5. Defendant Cohen & Krassner is an unincorporated New York law firm engaged in the business of collecting debts. The principal purpose of Defendant is the collection of debts and defendant regularly attempts to collect debts allegedly due to another, and is a "debt collector" as defined by 15 U.S.C. § 1692(a)(6).

6. Defendant Steven Cohen is a partner in Cohen & Krassner and a debt collector" as defined by 15 U.S.C. § 1692(a)(6).

FACTUAL ALLEGATIONS

7. Plaintiff Krassimir Galev has resided at his current address in the Bronx since 2005.

8. On May 14, 2009 defendants Steven Cohen & Cohen & Krassner brought suit against Mr. Galev for an alleged Chase credit card debt on behalf of Erin Capital Management, LLC.

9. Defendants either knew or should have known that Mr. Galev had resided in the Bronx since 2005 yet decided to bring suit in New York County Civil Court instead of Bronx County Civil Court.

10. Defendants further falsely stated in the lawsuit that Mr. Galev resided at 548 W. 50th Street, Apt. C, New York, NY 10019-7054.

11. Defendants purportedly attempted to serve Mr. Galev at W. 50th St. address and falsely informed the NY Civil Court that Mr. Galev currently resided at that address and had been properly served at that address. Defendants used these false representations to obtain a default judgment against Mr. Galev in the amount of \$6,502.47.

12. Mr. Galev did not learn about the lawsuit until the first week of May 2011 when his bank account was frozen after a default judgment had been entered against him without his knowledge.

FIRST CAUSE OF ACTION
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT
AGAINST ALL DEFENDANTS

10. The plaintiff hereby realleges and incorporates by reference each of the allegations alleged above.

11. The plaintiff Krassimir Galev is a “consumer” as that term is used in 15 U.S.C. § 1692a(3).

12. Defendants Erin Capital, Cohen & Krassner and Steven Cohen are a “debt collectors” within the meaning of 15 U.S.C. § 1692a(6).

13. The alleged debt underlying the plaintiff’s complaint is a “debt” within the meaning of 15 U.S.C. § 1692a(5).

14. Defendants violated 15 U.S.C. § 1692i(a)(2) by bringing suit in a judicial district where the plaintiff neither signed the contract sued upon nor resided at the time of the lawsuit.

15. Defendants violated 15 U.S.C. 1692e(10) by falsely stating to the New York Civil Court that Mr. Galev resided at 548 W. 50th Street.

16. As a result of the defendants’ unlawful conduct the plaintiff suffered actual financial and emotional distress damages.

SECOND CAUSE OF ACTION
VIOLATION OF NEW YORK JUDICIARY LAW § 487
AGAINST COHEN & KRASSNER AND STEVEN COHEN ONLY

24. The plaintiff hereby realleges and incorporates by reference each of

the allegations alleged above.

25. The defendants Cohen & Krassner and Steven Cohen violated NY Judiciary Law § 487 by using deceit with the intent to deceive the NY Civil Court by falsely informing the Court that Mr. Galev resided at 548 W. 50th St. and had been served with a copy of the summons and complaint when in fact it knew or should have known that he did not reside at that address at the time of the lawsuit and was never served with a copy of the summons and complaint in that action.

26. The plaintiff has suffered damages therein and is entitled to an award of treble damages pursuant to NY Judiciary Law § 487.

WHEREFORE, the plaintiff respectfully requests that judgment be entered as follows:

- A. Awarding the plaintiff actual damages pursuant to 15 USC § 1692k(a)(1).
- B. Awarding the plaintiff statutory damages pursuant to 15 USC § 1692k(a)(2)(A).
- C. Awarding the plaintiff attorney's fees and costs pursuant to 15 USC § 1692k(a)(3).
- D. Awarding the plaintiff treble damages pursuant to NY Judiciary Law § 487.
- E. Granting such other and further relief as the Court deems just.

DEMAND FOR JURY TRIAL

Please take notice that the plaintiff Krassimir Galev demands trial by jury in this action.

Dated: April 25, 2012
New York, NY



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